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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/654,364	09/03/2003	Michael van der Sleesen	VLL-156 (56410-073)	4203

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EXAMINER

HOEY, ALISSA L

ART UNIT	PAPER NUMBER
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3765

DATE MAILED: 05/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/654,364

Applicant(s)

SLEESEN, MICHAEL VAN DER

Examiner

Alissa L. Hoey

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 03 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                            | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over DiPaola (US 3,086,215) in view of Wexler (US 2,084,173).

DiPaola provides a garment having an upper panel having two opposing edges a top edge extending between the first ends of the side edges and a bottom edge extending between the second ends of the side edges (figures 1, identifiers 16, 17 and 20). A lower panel having two opposing side edges, a top edge extending between the first ends of the side edges and a bottom edge extending between second ends of the side edges (figure 1, identifier 13). An air permeable vent panel extending along a vent axis and having a top edge and a bottom edge opposite thereto on either side of the vent axis (figure 1, identifiers 38, 39 and 40: column 2, lines 50-58). The top edge of the vent panel being continuously joined with the bottom edge of the upper panel. The bottom of the vent panel being continuously joined with the top edge of the lower panel (figure 6, identifiers 22, 30 and 33: column 2, lines 27-31). An underlay panel underlying and spanning the vent panel and having peripheral edges affixed to the vent panel (figures 6 and 3, identifiers 23, 40, 22, 21 and 33). The underlay panel including a slit extending in the general direction of the vent axis and the slit having a selectively

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operable closure assembly extending there along (figure 3, identifier 45). The closure assembly is a zipper fastener (column 2, lines 59-64).

However, DiPaola fails to teach the upper panel, the lower panel and the underlay panel being air impermeable.

Wexler teaches a jacket having air impermeable material and having portions of air permeable material (page 1, column 1, lines 38-53)

It would have been obvious to have provided the jacket of Di Paola with the air impermeable material of Wexler, since the upper panel, lower panel and underlay portion of DiPaola provided in an air impermeable material would provide a jacket that has a ventilation portion that can be selectively opened or closed and also provides warmth and insulation to the user preventing the entry of rain, wind and the elements.

3. Claim 2 rejected under 35 U.S.C. 103(a) as being unpatentable over Di Paola and Wexler as applied to claim 1 above, and further in view of Gershman (Velcro Digest).

DiPaola and Wexler fail to teach the closure assembly being a hook and loop fastener. Gershman provides the equivalence of hook and loop fasteners and zipper fasteners and therefore being interchangeable (see article).

It would have been obvious to have provided the closure fastener of DiPaola and Wexler with a hook and loop fastener of Gershman, since the closure of DiPaola and Wexler provided with a hook and loop fastener would provide an easy to open and close fastener that would not rust or during laundering or rain.

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4. Claims 4-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over DiPaola and Wexler as applied to claims 1 and 3 above, and further in view of Miller et al. (US 4,608,715).

DiPaola and Wexler fail to teach the zipper assembly including multiple zip heads, the zip heads being oppositely directed facing zip heads, the zip heads being oppositely directed non-facing zip heads, the zipper including two pairs of zip heads.

Miller et al. provides a zipper assembly including multiple zipper heads, the zipper heads being oppositely directed facing zipper heads (figures 1, and 4, identifiers 36, 38, 46 and 48).

At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to have provided the zipper heads being oppositely directed non-facing zip heads and the zipper including two pairs of zip heads because Applicant has not disclosed that the zipper heads being oppositely directed non-facing zip heads and the zipper including two pairs of zipper heads provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with the zipper including two pairs of zipper heads and the zipper heads being oppositely directed non-facing zipper heads or the zipper heads being oppositely directed facing zipper heads because as long as the closure assembly comprises some sort of mechanism that allows a user to open and close the slit for ventilation purposes. Therefore, it would have been an obvious matter of design choice to modify DiPaola and Wexler to obtain the invention as specified in claims 6-8.

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It would have been obvious to have provided the zipper heads and configuration of Miller et al. with the jacket of DiPaola and Wexler, since the zipper of DiPaola and Wexler comprising multiple zipper heads would provide for even further selective ventilation as deemed necessary to the user.

### ***Conclusion***

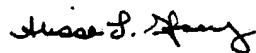
5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Katz et al., Bush et al., Kaplan, Langrock, Anders, Bagnato, Weiner, Hirsch, Lash et al., Lepore, Myers, Ingram, III, Brown, Harvey, Kratz, Foster, Golde, Svetich, Van der Slessen, Thompson, Rudman, Nakagawa, Hong, Bay et al., Burns et al. and Moretti are all cited to show closely related articles.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alissa L. Hoey whose telephone number is (703) 308-6094. The examiner can normally be reached on M-F (8:00-5:30) Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on (703) 305-1025. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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